



June 4, 1999

Ms. Laura E. Enriquez-Guerra
Records Management Specialist
Ysleta Independent School District
9600 Sims Drive
El Paso, Texas 79925-7225

OR99-1562

Dear Ms. Enriquez-Guerra:

You ask whether certain information is subject to required public disclosure under the Texas Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 124656.

The Ysleta Independent School District (the "district") received a request for a copy of a specific investigative report. You state that the investigative report includes various handwritten student statements. You claim that the submitted statements are educational records that must be withheld pursuant to sections 552.026 and 552.114 of the Government Code, and pursuant to the Family Education Rights and Privacy Act ("FERPA"), 20 U.S.C. § 1232g. We have considered the exception you claim and have reviewed the submitted information.¹

In Open Records Decision No. 634 (1995), this office concluded that (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 of the Government Code without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure

¹You have not submitted the remaining portions of the investigative report for our review. Therefore, we presume that this information has been released to the requestor. See Gov't Code § 552.301.

by section 552.114 of the Government Code as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception. In this instance, however, you have submitted the documents at issue to this office for consideration. Therefore, we will consider whether these documents are excepted from disclosure under sections 552.026 and 552.114 of the Government Code.

"Education records" under FERPA are records that

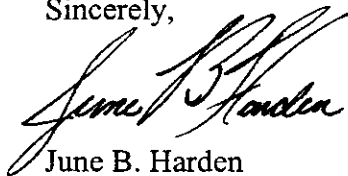
- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

20 U.S.C. § 1232g(a)(4)(A). *See also* Open Records Decision Nos. 462 (1987), 447 (1986).

We agree that the submitted documents are education records under FERPA, and, therefore, must be withheld from disclosure to the extent "reasonable and necessary to avoid personally identifying a particular student." *See* Open Records Decision Nos. 539 (1990), 332 (1982), 206 (1978). In this instance, the district must withhold the submitted documents from disclosure in their entirety in order to satisfy the requirements of FERPA.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "June B. Harden", is written over the typed name.

June B. Harden
Assistant Attorney General
Open Records Division

JBH/ch

Ref.: ID# 124656

Encl. Submitted documents

cc: Mr. John Williams
Voorhies & Williams
609 N. Laurel
El Paso, Texas 79903
(w/o enclosures)